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Dated: October 8, 1996.

Carol M. Browner,

Administrator.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5470

[WO-330-1030-02-24 1A]

RIN 1004-AC69

Federal Timber Contract Payment Modification

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule removes the regulations on Federal timber contract payment modification. This action is necessary because this subpart is obsolete since timber sales affected by the Federal Timber Contract Payment Modification Act of October 16, 1984 have all been terminated.

EFFECTIVE DATE: This rule will take effect November 15, 1996.

FOR FURTHER INFORMATION CONTACT: Frank Bruno, Regulatory Management Team, Bureau of Land Management, (202) 452-0352.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

II. Background and Discussion of Final Rule

III. Procedural Matters

I. Public Comment Procedures

The existing regulation which this rule removes, 43 CFR part 5470, subpart 5475, is obsolete and without purpose. The BLM has determined for good cause that notice and public procedure on this rule are unnecessary and contrary to the

public interest, as the regulation that this rule removes contains no current regulatory substance or guidance.

II. Background and Discussion of Final Rule

43 CFR part 5470, subpart 5475 contains about five pages of regulations which do not have any effect. The Federal Timber Contract Payment Modification Act, 16 U.S.C. 618, which these regulations were written to implement, was requested by some in the timber industry to reduce their losses on the purchase of high-priced Federal timber incurred after the market took a significant downturn. The Act authorized purchasers to terminate contracts upon paying or arranging to pay a buy-out charge; whereas prior to this Act purchasers could not cancel a contract due to market conditions. The contracts covered by this Act were bid prior to January 1, 1982, and held as of June 1, 1984. The Act no longer applies to any existing contracts. Accordingly, 43 CFR part 5470, subpart 5475 is obsolete and without any further applicability.

III. Procedural Matters

National Environmental Policy Act

BLM has determined that this final rule makes only technical changes to the Code of Federal Regulations by eliminating provisions that have no impact on the public and no continued legal relevance. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix I, Item 1.10. In addition, the final rule does not meet any of the 10 criteria for exceptions to categorical exclusion listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act

The rule does not contain information collection requirements which the Office of Management and Budget must

approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The BLM has determined under the RFA that this final rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the final rule is not a significant regulatory action. As such, the rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Unfunded Mandates Reform Act

Pursuant to the requirements of section 205 of the Unfunded Mandates Reform Act of 1995 (UMRA), BLM has selected the most cost-effective and least burdensome alternative that achieves the objectives of the rule. Removal of 43 CFR part 5470, subpart 5475 will not result in any unfunded mandate to state, local or tribal governments in the aggregate, or to the private sector, of \$100,000,000 or more in any one year.

Executive Order 12612

The final rule would not have sufficient federalism implications to warrant BLM preparation of a Federalism Assessment (FA).

Executive Order 12630

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of "policies that have takings implications." Since the primary function of the final rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, BLM has determined that the rule would not cause a taking of private property, or require further discussion of takings implications under this Executive Order.